



**Dan Skopec**  
*Acting Secretary*

# California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control  
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment  
State Water Resources Control Board • Regional Water Quality Control Boards



**Arnold Schwarzenegger**  
*Governor*

Certified Mail: 7003 1680 000 6174 7824

May 30, 2006

Mr. Robert Shingai  
Environmental Health Director  
San Benito County Health Department  
1111 San Felipe Road, Suite 101  
Hollister, California 95023

Dear Mr. Shingai:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, the State Water Resources Control Board and the Department of Toxic Substances Control conducted a program evaluation of the San Benito County Health Department Certified Unified Program Agency (CUPA) on May 18 and 19, 2006. The evaluation consisted of a review of program elements, an in-office program review and an underground storage tank facility oversight inspection. Following the evaluation, the state evaluators completed an Evaluation Summary of Findings, which was reviewed with your agency's program management. The evaluation summary of findings includes identified deficiencies, corrective action to be taken and timeframes for correction of identified deficiencies. Two additional evaluation documents completed during the evaluation are the Program Observations and Recommendations and the Examples of Outstanding Program Implementation.

I have reviewed the enclosed copy of the Evaluation Summary of Findings and I find that San Benito County Health Department's program performance is satisfactory with some improvement needed. To complete the evaluation process, please provide quarterly reports to Cal/EPA of your progress toward correcting the identified deficiencies. Submit your quarterly reports to Ms. Robbie Morris by the 15<sup>th</sup> of the month following each quarter. The first report of progress is due on September 15, 2006.

Cal/EPA also noted during this evaluation that San Benito County Health Department has worked to foster a strong cooperative relationship with the Participating Agency, through joint trainings, meetings, and multiple joint inspections.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at [jbohon@calepa.ca.gov](mailto:jbohon@calepa.ca.gov).

Sincerely,

Don Johnson  
Assistant Secretary  
California Environmental Protection Agency

Enclosure  
cc: See next page

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cc: Mr. Raymond Stevenson (Sent Via Email)  
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Dan Skopec  
Acting Agency Secretary

# STATE OF CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



Arnold  
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## **CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS**

### **CUPA: San Benito County Division of Environmental Health**

**Evaluation Date: May 18 and 19, 2006**

#### **EVALUATION TEAM**

**Cal/EPA:** Robbie Morris and John Paine  
**SWRCB:** Sean Farrow  
**OES:** Fred Mehr  
**DTSC:** Mark Pear

This Summary of Findings includes the deficiencies identified during the evaluation, observations and recommendations for program improvement, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Robbie Morris at (916) 327-9560.

	<b><u>Deficiency</u></b>	<b><u>Preliminary Corrective Action</u></b>
<b>1</b>	<p>The CUPA has not met the mandated inspection frequencies for those regulated business subject to inspection once every three years.</p> <p>For the HMRRP, the CUPA has inspected only four percent of known facilities for fiscal year 2004/2005.</p> <p>For the Hazardous Waste Generator Program, the CUPA has inspected only 52% of all known facilities generating hazardous waste over the past three fiscal years.</p> <p>This deficiency was also identified during the CUPA's last evaluation in 2004. The CUPA noted in their annual self audit that inspection frequencies are not being met due to that lack of resources.</p> <p>The CUPA also identified that the PA is not meeting Business Plan inspection frequencies within their</p>	<p>Effective immediately, the CUPA will increase the number of inspections to meet all required inspection frequencies.</p> <p>By September 1, 2006, The CUPA will identify how they will meet the required number of inspections for future fiscal years.</p>

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	jurisdiction pursuant to the Participation Agency (PA) Agreement.	
2	<p>The CUPA has not met the mandated inspection frequencies for UST facilities.</p> <p>For the Underground Storage Tank Program, the CUPA only inspected 26% and 30% of tanks for fiscal years 04/05 and 02/03, respectively.</p> <p>This deficiency was also identified during the CUPA's last evaluation in 2004. The CUPA noted in their annual self audit that inspection frequencies are not being met due to that lack of resources. The CUPA also identified that the PA is not meeting UST inspections frequencies within their jurisdiction pursuant to the PA Agreement.</p>	By September 1, 2006, The CUPA will identify how they will meet these frequencies.
3	The CUPA is not ensuring that all UST facilities have a current operating permit. Files reviewed indicate several facilities had expired permits.	Effective immediately, the CUPA will identify businesses with an expired permit and bring them into compliance in accordance with their permit procedures.
4	Based on reviewed files, the CUPA is not accurately documenting violations in their inspection reports nor are they accurately reporting these violations on their Annual Enforcement Summary Report No. 4.	Effective immediately, the CUPA will document all violations on their inspection reports. The CUPA will also accurately report violations on the FY 05/06 Annual Enforcement Summary Report No. 4.
5	The CUPA is not fully documenting Return to Compliance from businesses found to have violations. The CUPA has developed a Certification of Return to Compliance form. The form was not found returned and properly completed in some of the facility files.	Effective immediately, the CUPA will ensure businesses submit documentation demonstrating correction of all violations and certification of return to compliance or conduct re-inspections.
6	The CUPA's Unidocs map is missing two required elements. The missing elements are "Adjacent Property Use" and "Access and Egress Points and Roads."	This deficiency was correct during the evaluation. The CUPA has replaced the Unidocs map with their own map that contains the required elements.

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<b>7</b>	The CUPA is not enforcing the mandated requirement for businesses to review and update their emergency response procedures tri-annually. Numerous Business Plans reviewed are missing the Emergency Response/ Contingency Plan.	By October 1, 2006, the CUPA will develop a process to ensure that each business certifies to the CUPA and that each business has reviewed their emergency response procedures tri-annually and make necessary changes.
<b>8</b>	<p>Review of the CUPA's files indicates business permits do not contain all required UST permit conditions. The permit is missing "Monitoring Requirements" and the following statements:</p> <ul style="list-style-type: none"> <li>• "The approved monitoring, response, and plot plans shall be maintained on site with the permit."</li> <li>• "The owner and operator are subject to all applicable requirements of chapter 6.7 and chapter 6.75 of the Health and Safety Code and title 23, division 3, chapters 16 and 18."</li> <li>• "The permit is to be maintained on site."</li> </ul>	By June 30, 2006, the CUPA will amend their permit to include these requirements and re-issue the revised permit, as they expire.
<b>9</b>	Based on review of the CUPA files, some of the businesses were missing "Monitoring Plans".	By October 1, 2006, the CUPA will review their files to identify those missing the monitoring plans and request those businesses submit the monitoring plans.
<b>10</b>	The CUPA is approving UST plot plans without all of the required elements.	Effective immediately, the CUPA will only approve UST plot plans that have all of the required elements, which includes the following: sensor and equipment locations, tank annular space, sumps, dispenser pans, spill containers, or other secondary containment areas; mechanical or electronic line leak detectors; and in-tank liquid level probes (if used for leak detection), etc.

**CUPA Representative**

Raymond W Stevenson  
(Print Name)

Original Signed  
(Signature)

**Evaluation Team Leader**

Robbie Morris  
(Print Name)

Original Signed  
(Signature)

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**PROGRAM OBSERVATIONS AND RECOMMENDATIONS**

1. **Observation:** The CUPA maintains a website that identifies the various programs they implement and makes available to the public downloadable forms and application material. The link to the California Accidental Release Prevention Program is not functional.

**Recommendation:** Update the link so it accurately directs the reader to the CalARP website.

2. **Observation:** The CUPA forwards non-compliant businesses, in the form of a written request, to the DA's office for enforcement action. The DA then sends a written request to the business to comply. The SOP indicates that a written request for compliance in the form of an Administrative Enforcement Order is issued as the initial phase of enforcement. Other options are identified in the SOP that may not be an up to date process. Last year, the CUPA forwarded two cases to the DA's office, one of the businesses returned to compliance; the other is still pending.

**Recommendation:** The CUPA should update their Enforcement Policy, Standard Operating Procedure (SOP No. 6) to reflect the current procedure. A follow up of the cases referred to the DA's office should be documented, in the facility's file. Additionally, businesses that do not return to compliance through the DA's office and are left pending (not active), should be issued an Administrative Enforcement Order by the CUPA.

3. **Observation:** The CUPA conducted a complete evaluation of the PA, dated June 2, 2004. The evaluation identified deficiencies and requested information and a response to address these deficiencies. A response from the PA was not received and a follow up from the CUPA was not conducted. The CUPA informed Cal/EPA that the former Fire Captain left the City of Hollister and therefore no further information was available.

**Recommendation:** Keep up the good work on completing the evaluation for the PA. Since the City of Hollister has a new Fire Captain in charge of implementing the Unified Program elements, a PA evaluation should be completed with appropriate follow up. Provide the results of the PA evaluation in a narrative summary in the annual self-audit.

4. **Observation:** Training records were complete and maintained on file.

**Recommendation:** Keep up the good work.

5. **Observation:** The CUPA informed Cal/EPA that one of the Registered Environmental Health inspectors is being cross trained to assist in some with some of the agricultural facilities.

**Recommendation:** Continue the effort to bring the number of inspections up to standard.

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6. **Observation:** The CUPA Hazardous Materials Business Emergency Plan Emergency Procedures list an out of date OES phone number.

**Recommendation:** The CUPA should use the new number of (916) 845-8911.

7. **Observation:** The UST inspection checklist does not identify Significant Operational Compliance (SOC) items or provide a summary of these items for tracking purposes, nor is the CUPA tracking SOC compliances.

**Recommendation:** Provide a means for determining SOC compliance during the inspection and commence tracking the compliance in order to provide the data for Report 6.

An inspection "Draft" form has been given to the CUPA for the identification of SOC to be added to the UST inspection form.

8. **Observation:** While the inspector conducted a thorough inspection during the oversight, the inspector was unaware of the distinction between SQG (small quantity generator) and LQG (large quantity generator) requirements.

**Recommendation:** The CUPA should review SQG requirements that can be found under Title 40 CFR and those of a LQG under Title 22 CCR 66262.34. Please see hand out provided.

9. **Observation:** The inspector did not access DTSC's Hazardous Waste Tracking System on the date of the oversight inspection.

**Recommendation:** The CUPA should access DTSC's Hazardous Waste Tracking System for future generator inspections to determine waste profiles and generation status from previous manifests sent. In addition, obtain a list of manifests and selectively compare to those found on site at the facility for the past three years as required by CCR Title 22 Section 66262.40.

10. **Observation:** The CUPA's Inspection Reports do not segregate Class I violations and chronic Class II violations under a Summary of Violations from minor violations under a Notice to Comply

**Recommendation:** The CUPA should modify their inspection reports to segregate these elements in order to distinguish between enforcement modes for Class I, Class II, and minor violations and to aid in tracking.

11. **Observation:** The CUPA was able to demonstrate that complaints referred to them by DTSC from January 1, 2003 to May 1, 2006 were investigated. Follow-up documentation could be found for Complaints Nos. 05-1105-0559 and 04-1204-0696 except for 05-0005-004.

**Recommendation:** Keep up the good work. The CUPA should provide the email address of the CUPA representative, who is responsible for receiving complaints forwarded from the DTSC to



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their Complaints Coordinator, Ms. Sue Laney at [slaney@dtsc.ca.gov](mailto:slaney@dtsc.ca.gov). Investigate and document all complaints referred. Investigation does not always entail inspection, as many issues may be resolved by other means such as a phone call. In any instance, it is suggested that all investigations be documented, either by inspection report or by “note to file” and placed in the facility file. Notify the DTSC Complaint Coordinator of the disposition of all complaints previously forwarded from DTSC.

- 12. Observation:** The current Return to Compliance certification lacks a clause of signing under the penalty of perjury.

**Recommendation:** The CUPA should refer to the Return to Compliance certificate provided by DTSC.

- 13. Observation:** There is a difference of approximately 113 facilities between what the CUPA has reported in its latest inspection summary report for Fiscal Year 2004- 2005, which is 78 facilities, and the total number of businesses manifesting off hazardous waste with active EPA ID numbers listed in the Department's Hazardous Waste Tracking System, which is 191 facilities. This number also does not include all farms located within the county.

**Recommendation:** The CUPA should compare the DTSC and CUPA list of HWG facilities and identify facilities that the CUPA needs to incorporate into their inspection program.

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**EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION**

1. Although inspection frequencies are not being met, the PA and CUPA are working aggressively and cooperatively and have an excellent working relationship. This year, the CUPA and PA have done 20 joint inspections and have completed 52 routine inspections. The Fire Captain is rotated out of the position every two years, which may promote the low number of inspections within their jurisdiction. Additionally, this position only allows for 50% of their time to be allocated to the Unified Program. The CUPA met with the City last month to discuss the inspection frequency issue and the City of Hollister is proposing an initiative to raise local sales tax. Upon a passing measure, the City will utilize some of the revenue to create a new city position and recruit a full time City firefighter to conduct the CUPA inspections. The CUPA continues to strategize and work positively to improve elements of the program.
2. CUPA files are well organized and maintained in a central location. Each file is color coded to identify whether it is within the county or city jurisdiction and alphabetized by facility name. The material in each file is organized in a consistent manner and streamlines the file review process.
3. The CUPA maintains a battery recycling container at the front customer service counter for small batteries utilized for electronics, such as the common, A, AA, C, D, etc. type batteries.